



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: LNO - 173012

PRELIMINARY RECITALS

On March 23, 2016, the above petitioner filed a hearing request under Wis. Admin. Code § DCF 201.07(1)(e), to challenge a decision by the Milwaukee Early Care Administration - MECA regarding Child Care. The hearing was held on May 4, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the Petitioner's appeal is timely and, if so, whether the agency properly docketed a warrant against the Petitioner for an unpaid public assistance debt.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, WI 53703

By: [REDACTED]
Milwaukee Early Care Administration - MECA
Department of Children And Families
1220 W. Vliet St 2nd Floor, 200 East
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On August 27 and 28, 2012, the agency issued a Child Care Overpayment Notifications and worksheets to the Petitioner informing her that the agency intends to recover an overissuance of child care benefits in the amounts of \$1,963.56 for the period of February 1, 2011 – December 31, 2011 and \$840.18 for the period of January 1, 2012 – April 30, 2012 due to a failure to properly participate in approved W-2 activities. The notices also informed the Petitioner of the right to appeal the overpayment determinations by filing a request for a hearing with the Division of Hearings and Appeals within 45 days of the date of the notice.
3. On August 28, 2012, the Petitioner contacted the agency to discuss the overpayments. Petitioner indicated at that time that she wished to work out a repayment agreement and did not want a fair hearing.
4. On October 2, 2012, November 2, 2012, and December 4, 2012, the agency issued dunning notices to the Petitioner.
5. On April 28, 2013, the agency issued a Notice of Warranted Docketed in Milwaukee County to the Petitioner. It advised her that a warrant was docketed for the collection of a delinquent child care debt. The notice further advised her of the right to request a hearing regarding the docketing of the warrant by filing such request within 21 days of the date of the notice.
6. On March 23, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

A hearing officer can rule on the merits of a case only if there is jurisdiction to do so. There is no jurisdiction if a request for a hearing is not timely filed. A request for a hearing regarding an overissuance of child care benefits must be filed within 45 days of the date of the overpayment action. Wisconsin Shares Child Care Policy Manual, § 3.5.3. A request for a hearing regarding the docketing of a warrant for an unpaid public assistance debt must be filed within 21 days of the date of the action. Wis. Stat., § 49.195(3s) & Wisconsin Admin. Code, § DCF 201.04(5)(ep).

In this case, the Petitioner testified that she received the overpayment and warrant notices. She stated that she filed for bankruptcy in 2014 and believed the debts had been discharged. She disputes the underlying overpayment actions and believes there was provide fraud.

The Petitioner's appeal was filed approximately 3 ½ years after the overpayment notices were issued to her and 3 years after the warrant notice. The Petitioner received the notices and therefore should have been aware of the deadline for filing an appeal. Because her appeal was not timely with regard to the overpayment actions or the warrant action, DHA does not have jurisdiction and cannot rule on the merits of the actions.

CONCLUSIONS OF LAW

The Petitioner's appeal is untimely.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 26th day of July, 2016

\s _____
Debra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 26, 2016.

Milwaukee Early Care Administration - MECA
Public Assistance Collection Unit